



01 MAR 2005

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In re Application of :
TAPANES, Edward Edwardo :
Application No.: 10/500,642 :
PCT No.: PCT/AU02/00007 :
Int. Filing Date: 04 January 2002 :
Priority Date: None :
Attorney Docket No.: 13070.22 :
For: PERIMETER SECURITY AND :
PERIMETER MONITORING METHOD :

DECISION ON
PAPERS UNDER 37 CFR 1.181

This decision is in response to applicant's "Response to Notification of Abandonment" filed on 17 December 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 04 January 2002, applicant filed international application PCT/AU02/00007 which claimed a priority date of 07 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 September 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 07 September 2003.

On 18 August 2003, the International Bureau mailed a Notification of Withdrawal of Priority Claim (Form PCT/IB/317) which indicated that the applicant withdrew its priority claim on 04 August 2003. Hence, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, 07 July 2004.

On 01 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee; an executed declaration; and an assignment.

On 06 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant failed to timely pay the full basic national fee.

On 17 December 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The transmittal letter and the accompanied papers filed 01 July 2004 are located in the application file. A review of the finance records for this application together with the other evidence of record reveals that a payment of \$540.00 for the basic national fee for this application was received on 01 July 2004.

The transmittal letter correctly identifies the international application number of the international application and the box adjacent item 3 of the transmittal letter was marked requesting national examination procedures to commence. No priority date was claimed on the transmittal letter and a review of the Notification of Abandonment mailed 06 December 2004 reveals that a priority date of 07 March 2001 was indicated thereon. Apparently, the withdrawal of the priority claim as indicated on the Notification (Form PCT/IB/317) of record was not taken into account in computing the thirty-month due date for the basic national fee prior to mailing the Notification of Abandonment as required under PCT Rule 90bis.3(d). Accordingly, the receipt of the basic national fee on 01 July 2004 was timely in view of the timely withdrawal of the priority claim.

The declaration filed 01 July 2004 complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicant's petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment mailed 06 December 2004 is hereby VACATED.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.



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